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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,717	06/27/2003	Ralph Schwarz	J-3867	6908
28165	7590	08/30/2005	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			HOPKINS, ROBERT A	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/608,717

**Applicant(s)**

SCHWARZ, RALPH

**Examiner**

Robert A. Hopkins

**Art Unit**

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1,2,13-17,19 and 21 is/are rejected.
- 7) ☒ Claim(s) 4-8,11,12,18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

Examiner respectfully submits that a brief summary of the invention is required in the current specification between the background of the invention and the detailed description.

Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,13,14,16, and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yurdin(3633881).

Yurdin teaches a dispensing system for a volatile liquid comprising a fan(60) adapted to push an airstream and a capillary member(54) in fluid communication with reservoir for the volatile liquid, the capillary member having a body, in which a portion of the body is positioned within the airstream(see figure 2) with the fan activated, in which

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the portion of the body is impervious to passage of the air stream therethrough in a direction of the air stream and in which the air stream passes unobstructed over opposing surfaces of the capillary member aligned generally transverse to the direction of the air stream. Yurdin further teaches wherein the dispensing system includes a housing(14) in which the portion of the body and the motorized fan are positioned within an enclosure of the housing. Yurdin further teaches wherein a motor for the fan turns the fan according to predetermined cycle when power is supplied to the motor, the cycle comprising a motor "on" period of a predetermined length of time and a motor "off" period of a predetermined length of time(column 4 lines 4-13). Yurdin further teaches wherein another portion of the capillary member is positioned inside a reservoir containing the volatile liquid. Yurdin further teaches wherein the capillary member includes a first section(62) formed using a material with a predetermined pore size and a second section(54) formed using a material with a predetermined pore size that is different from that of the material of the first section. Yurdin further teaches wherein the ratio of the pore size of the second section to the first section is greater than about two.

Claims 17,19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yurdin(3633881).

Yurdin teaches a dispensing system for a volatile liquid comprising a dispenser having a housing(14) defining an interior, a fan(60) coupled with the housing and adapted to generate an air stream flowing from the fan, and a capillary member(54) in fluid communication with reservoir for the volatile liquid, the capillary member having a

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portion positioned to be immersed in the air stream in which the portion of the capillary member is spaced apart from any interior portion of the housing.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yurdin(3633881).

Yurdin teaches all of the limitations of claim 15 but is silent as to wherein the ratio of predetermined period of length of time of the motor being "on" to the predetermined length of time of the motor being "off" is approximately 1 to 3. Examiner notes that programming the timer of Yurdin to a specific ratio of on to off time is a matter of routine experimentation, therefore it would have been obvious to someone of ordinary skill in the art at the time of the invention to provide for a ratio of predetermined period of length of time of the motor being "on" to the predetermined length of time of the motor being "off" is approximately 1 to 3 so that the vapor of the volatile liquid is dispensed for an optimum period of time.

***Allowable Subject Matter***

Claims 9 and 10 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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Claim 9 includes subject matter which was indicated as allowable in the previous office action. Claim 10 depends on claim 9 and hence is also allowed.

Claims 4-8, 11, 12, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 4 recites "a blade of the fan has a dimension R extending from an axis of rotation of the fan blade to an edge of the fan blade farthest from the axis of rotation; and the portion of the body of the wick is positioned to be immersed in the air stream generated by the fan, in which the body of the wick has a width W which does not exceed  $1.2R$ ". Yurdin teaches a fan adapted to push an air stream, however the fan does not have blades which have a dimension R extending from an axis of rotation of the fan blade to an edge of the fan blade farthest from the axis of rotation. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a fan having blades which have a dimension R extending from an axis of rotation of the fan blade to an edge of the fan blade farthest from the axis of rotation because Yurdin does not suggest such a modification.

Claim 5 recites "further comprising a guide associated with the fan and defining an opening, having a predetermined dimension, to selectively receive the capillary member and to position the portion of the body such that the portion of the body is in the air stream when the fan is activated". Yurdin fails to teach a guide associated with the fan. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a guide associated with the fan and defining an opening, having

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a predetermined dimension, to selectively receive the capillary member and to position the portion of the body such that the portion of the body is in the air stream when the fan is activated because Yurdin does not suggest such a modification. Claims 6-8 depend on claim 5 and hence would also be allowable upon incorporation of claim 5 into claim 1.

Claim 11 recites "wherein the capillary member includes a first section formed using a material with a predetermined pore size and a second section formed using a material with a predetermined pore size different from that of the material of the first section". Yurdin teaches a capillary member having an impervious peripheral wall. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide wherein the capillary member includes a first section formed using a material with a predetermined pore size and a second section formed using a material with a predetermined pore size different from that of the material of the first section because Yurdin does not suggest such a modification. Claim 12 depends on claim 11 and hence would also be allowable upon incorporation of claim 11 into claim 1.

Claim 18 recites "wherein the portion of the capillary member is positioned within a cylindrical volume centered along an axis of rotation of the fan and having a radius which extends from the axis of rotation to the farthest extension of a fan blade of the fan". Yurdin fails to teach wherein a portion of the capillary member is positioned within a cylindrical volume centered along an axis of rotation of the fan and having a radius which extends from the axis of rotation to the farthest extension of a fan blade of the fan. It would not have been obvious to someone of ordinary skill in the art at the time of

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the invention to provide a portion of the capillary member which is positioned within a cylindrical volume centered along an axis of rotation of the fan and having a radius which extends from the axis of rotation to the farthest extension of a fan blade of the fan because Yurdin does not suggest such a modification.

Claim 20 recites "wherein the portion is positioned generally transverse to an axis of rotation of the fan". Yurdin fails to teach a portion of a capillary member which is positioned generally transverse to an axis of rotation of the fan. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a portion of a capillary member which is positioned generally transverse to an axis of rotation of the fan because Yurdin does not suggest such a modification.

### ***Response to Arguments***

Applicant's arguments filed 8-15-05 have been fully considered but they are not persuasive.

Applicant states Yurdin discloses an apparatus for evaporating deodorant liquid in which a wick extends from a reservoir for the liquid deodorant to an interior of a centrifugal blower. Applicant further states the centrifugal blower draws or pulls air from an air supply passage across an exposed end of the wick and subsequently draws the air through blades thereof and pushes the air out a discharge outlet. Applicant argues the cited art(Yurdin) does not disclose or suggest a dispensing system for a volatile liquid in which a fan is adapted to push an air stream, which passes unobstructed over opposing surfaces of a capillary member aligned generally transverse to the direction of the air stream.



Examiner notes that Applicant, in the statements regarding Yurdin, states that the “centrifugal blower ... pushes the air out a discharge outlet”. Therefore, examiner respectfully submits that applicant admits that the fan(blower) of Yurdin does in fact push an air stream. Examiner furthermore notes that Websters Collegiate Dictionary, Tenth Edition, 1999, defines both a blower and a fan as “a device for producing a current of air”. Therefore, the blower in Yurdin is clearly a fan because it produces a current of air, and it also clearly pushes an air stream. Examiner also notes that as the airflow passes from the blower to the discharge outlet 36, the airflow passes unobstructed over opposing surfaces(65) of the capillary member aligned generally transverse to the direction of the airstream.

Applicant argues with regard to claim 17 that the cited art(Yurdin) does not disclose or suggest a dispensing system for a volatile liquid in which a capillary member has a portion position to be immersed in an air stream blowing from a fan and in which the portion of the capillary member is spaced apart from an interior portion of the housing.

Examiner respectfully submits that the capillary member of Yurdin does include a portion(65) to be immersed in an air stream blowing from a fan(blower) and wherein the portion is clearly spaced apart from an interior portion of the housing.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

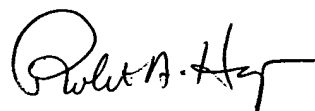
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rah  
August 29, 2005

  
ROBERT A. HOPKINS  
PRIMARY EXAMINER  
A.U. 1724